

ASSEMBLY BILL

No. 1576

Introduced by Assembly Member Silva

February 23, 2007

An act to amend Section 17518.5 of, and to add Sections 17521.5, 17557.1, and 17557.2 to, and to add Article 2.5 (commencing with Section 17590) to Chapter 4 of Part 7 of Division 4 of Title 2 of, the Government Code, relating to state mandates.

LEGISLATIVE COUNSEL'S DIGEST

AB 1576, as introduced, Silva. State mandates: reimbursement procedures; alternate procedure.

Under the California Constitution, whenever the Legislature or a state agency mandates a new program or higher level of service on any local government, including school districts, the state is required to provide a subvention of funds to reimburse the local government, with specified exceptions. Existing law establishes a procedure for local governmental agencies to file claims for reimbursement of these costs with the Commission on State Mandates. The procedure requires the commission to hear and decide upon each claim for reimbursement and then determine the amount to be subvented for reimbursement and adopt parameters and guidelines for payment of claims. It requires the commission to consult with the Department of Finance, among other state officials, when adopting parameters and guidelines for reimbursement.

This bill would provide that, notwithstanding these provisions, within 30 days of the commission's adoption of a statement of decision on a test claim, the test claimant and the Department of Finance may notify the executive director of the commission of their intent to use an

alternate process to draft negotiated parameters and guidelines based on a reasonable reimbursement methodology, as defined. This bill would establish the requirements of this alternate process, which would include a requirement that the test claimant and department develop a reasonable reimbursement methodology that is supported by a wide range of affected local governments. It would authorize the test claimant or department to opt out of the alternate process at any time.

This bill also would also establish a procedure for the department, in consultation with local governments, to seek to have the Legislature determine if a particular statute or executive order imposes a mandate for which reimbursement is required by the California Constitution. Under this procedure, the department would submit to the Legislature a proposal that identifies the statute or executive order, a reasonable reimbursement methodology, a list of eligible claimants, an estimate of statewide costs and costs for the initial claiming period, and information indicating significant support among affected local governments for the methodology. It would provide that, if the Legislature determines that the statute or executive order imposes a mandate for which reimbursement is required, it shall declare by statute that the requirements of the statute or executive order are a legislatively determined mandate and adopt the reasonable reimbursement methodology for reimbursing affected local governments their costs of complying with the mandate. It would authorize the Legislature to amend this methodology periodically, upon the recommendation of the department, a local government, or other interested party. It also would provide that, by accepting a payment to reimburse its costs pursuant to the methodology adopted by the Legislature in connection with a legislatively determined mandate, a local agency or school district agrees that this payment constitutes full reimbursement of its costs for that mandate for the applicable time period, that the reasonable reimbursement methodology is appropriate for reimbursement payments on that mandate for the next 4 years, and that the local government has withdrawn any test claim pending before the commission regarding this mandate and will not file a new test claim on this mandate for 4 years after the date of the first payment, unless the state changes the reasonable reimbursement methodology to provide a lesser amount of funds to the local government or the state fails to make the specified reimbursement payment but does not repeal or suspend the mandate.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 17518.5 of the Government Code is amended to read:

17518.5. (a) “Reasonable reimbursement methodology” means a formula for reimbursing local agency and school district costs mandated by the state that meets *one of* the following conditions:

(1) The total amount to be reimbursed statewide is equivalent to total estimated local agency and school district costs to implement the mandate in a cost-efficient manner.

(2) For 50 percent or more of eligible local agency and school district claimants, the amount reimbursed is estimated to fully offset their projected costs to implement the mandate in a cost-efficient manner.

(b) A reasonable reimbursement methodology may meet one of the conditions in subdivision (a) if it is based on cost information from a representative sample of eligible claimants, information provided by associations of affected local governments, or other projections of local costs.

~~(b)~~
(c) Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.

~~(c)~~
(d) A reasonable reimbursement methodology may be developed by any of the following:

(1) The Department of Finance.

(2) The Controller.

(3) An affected state agency.

(4) A claimant.

(5) An interested party.

SEC. 2. Section 17521.5 is added to the Government Code, to read:

1 17521.5. “Legislatively determined mandate” means the
2 provisions of a statute or executive order that the Legislature has
3 declared by statute to be a mandate for which reimbursement is
4 required by Section 6 of Article XIII B of the California
5 Constitution.

6 SEC. 3. Section 17557.1 is added to the Government Code, to
7 read:

8 17557.1. (a) Notwithstanding any other provision of this part,
9 within 30 days of the commission’s adoption of a statement of
10 decision on a test claim, the test claimant and the Department of
11 Finance may notify the executive director of the commission by
12 letter of their intent to use the alternate process outlined in this
13 section to draft negotiated parameters and guidelines that will be
14 based on a reasonable reimbursement methodology. This letter of
15 intent by the test claimant and department shall specify the
16 following:

17 (1) The date when the test claimant and department will provide
18 to the executive director an informational update regarding their
19 progress.

20 (2) The plan of the test claimant and department to ensure that
21 costs from a representative sample of eligible local government
22 claimants are considered.

23 (3) The date when the test claimant and department will submit
24 to the executive director the draft negotiated parameters and
25 guidelines, statewide cost estimate, and estimate of cost for the
26 initial claiming period. This date shall be no later than 180 days
27 after the date the letter of intent is sent by the test claimant and
28 department to the executive director, although the executive
29 director may provide for up to four 30-day extensions of this
30 180-day period at the request of the test claimant and department.

31 (b) The test claimant or department may notify the executive
32 director at any time that the claimant or department no longer
33 intends to use the alternate process. In this case, the requirements
34 of paragraph (2) of subdivision (a) of Section 17553 and Section
35 17557 shall apply. Upon receipt of this notification, the executive
36 director shall notify the test claimant of the duty to submit proposed
37 parameters and guidelines within 30 days under subdivision (a) of
38 Section 17557.

39 SEC. 4. Section 17557.2 is added to the Government Code, to
40 read:

1 17557.2. (a) When a test claimant and the Department of
2 Finance decide to proceed under the alternate process pursuant to
3 Section 17557.1, they shall develop a reasonable reimbursement
4 methodology that is supported by a wide range of affected local
5 governments. The test claimant and department may determine
6 the level of local support in different ways, including, but not
7 limited to, obtaining endorsement by statewide associations of
8 affected local governments and securing letters of approval from
9 a majority of responding affected local governments. The
10 reasonable reimbursement methodology shall specify a date after
11 which the department and test claimant agree to reconsider the
12 methodology and jointly propose amendments under this section.

13 (b) No later than 60 days before a commission hearing, the
14 claimant and department shall submit to the commission the draft
15 negotiated parameters and guidelines, an estimate of the mandate's
16 annual statewide costs and costs for the initial claiming period,
17 and a report that describes the steps the test claimant and the
18 department undertook to determine the level of local support for
19 the reasonable reimbursement methodology.

20 (c) If the commission, upon review of all information submitted
21 pursuant to Section 17557.1 and this section, determines that the
22 draft negotiated parameters and guidelines and cost estimates
23 satisfy the requirements of these sections, it shall adopt the
24 parameters and guidelines, statewide cost estimate, and estimate
25 of costs for the initial claiming period. Statewide cost estimates
26 adopted under this section shall be included in the report to the
27 Legislature required under Section 17600.

28 SEC. 5. Article 2.5 (commencing with Section 17590) is added
29 to Chapter 4 of Part 7 of Division 4 of Title 2 of the Government
30 Code, to read:

31
32 Article 2.5. Early Settlement of Claims
33

34 17590. The Legislature finds and declares all of the following:

35 (a) Early settlement of mandate claims will allow the
36 commission to focus its efforts on rendering sound quasi-judicial
37 decisions regarding complicated disputes over the existence of
38 state-mandated local programs.

1 (b) Early settlement of mandate claims will provide timely
2 information to the Legislature regarding local costs of state
3 requirements and timely reimbursement to local governments.

4 (c) It is the intent of the Legislature to provide for an orderly
5 process for settling mandate claims in which the parties are in
6 substantial agreement. Nothing in this article diminishes the right
7 of a local government that chooses not to accept reimbursement
8 pursuant to this article from filing a test claim with the commission
9 or taking other steps to obtain reimbursement pursuant to Section
10 6 of Article XIII B of the California Constitution.

11 17591. (a) With respect to any statute or executive order that
12 may impose a mandate for which reimbursement is required by
13 Section 6 of Article XIII B of the California Constitution, the
14 Department of Finance, in consultation with local governments,
15 may seek to have the Legislature make the required reimbursement
16 by submitting to the Legislature a proposal that includes all of the
17 following:

18 (1) The provisions of any statute or executive order that impose
19 a requirement on local governments.

20 (2) A reasonable reimbursement methodology.

21 (3) A list of eligible claimants.

22 (4) An estimate of statewide costs and costs for the initial
23 claiming period.

24 (5) Information indicating significant support among affected
25 local governments for the proposed reasonable reimbursement
26 methodology, which may include, but not be limited to,
27 endorsements by statewide associations of affected local
28 governments and letters of approval by a majority of responding
29 affected local governments.

30 (b) If the Legislature determines that the statute or executive
31 order imposes a mandate for which reimbursement is required by
32 Section 6 of Article XIII B of the California Constitution, it shall
33 declare by statute that the requirements of the statute or executive
34 order are a legislatively determined mandate and adopt the
35 reasonable reimbursement methodology for reimbursing affected
36 local governments their costs of complying with the mandate. The
37 Legislature may amend this methodology periodically, upon the
38 recommendation of the department, a local government, or other
39 interested party.

1 (c) The Legislature may repeal or modify a legislatively
2 determined mandate, or suspend it pursuant to Section 17581 or
3 Section 17581.5.

4 (d) By accepting a payment to reimburse its costs pursuant to
5 the methodology adopted by the Legislature in connection with a
6 legislatively determined mandate, a local agency or school district
7 agrees to the following terms and conditions:

8 (1) The payment constitutes full reimbursement of its costs for
9 that mandate for the applicable time period.

10 (2) The reasonable reimbursement methodology upon which
11 the payment is calculated shall be an appropriate reimbursement
12 methodology for the local government for the next four years.

13 (3) The local government has withdrawn any test claim pending
14 before the commission regarding this mandate and will not file a
15 new test claim on this mandate for four years after the date of the
16 first payment unless the state changes the reasonable
17 reimbursement methodology to provide a lesser amount of funds
18 to the local government or the state fails to make the specified
19 reimbursement payment but does not repeal or suspend the
20 mandate.